

Senate Energy and Environment Committee 1
Amendment No. 1 to SB1759

Southerland
Signature of Sponsor

AMEND Senate Bill No. 1759

House Bill No. 1572*

by adding the following language immediately preceding the enacting clause:

WHEREAS, the application of prescribed burning is a landowner property right and a land management tool that benefits the safety of the public, the environment and the economy of Tennessee; and

WHEREAS, prescribed burning reduces naturally occurring vegetative fuels within wild land areas. Reduction of the fuel load reduces the risk and severity of major catastrophic wildfire, thereby reducing the threat of loss of life and property, particularly in rural areas that are becoming more urban; and

WHEREAS, much of Tennessee's natural communities benefit from periodic fire for maintenance of ecological integrity and diversity. Prescribed burning is essential to the perpetuation, restoration and management of many plant and animal communities. Significant loss of the state's biological diversity will occur if fire is excluded from fire-dependent plant communities; and

WHEREAS, forest lands constitute significant economic, biological and aesthetic resources of statewide importance. Prescribed burning on forest land prepares sites for reforestation, removes undesirable competing vegetation, expedites nutrient cycling, controls or eliminates certain forest pathogens and improves habitat for many wildlife species; and

WHEREAS, the state manages hundreds of thousands of acres of land for parks, wildlife management areas, forests and other public purposes. The use of prescribed burning for management of public lands is essential to maintain the specific resource values for which these lands were acquired; and

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WHEREAS, certain lands benefit from the use of prescribed fire. Management of native warm season grasses for pastures, hay crops, and biofuels is dependent upon prescribed fire for effective and productive yields; and

WHEREAS, proper training in the use of prescribed burning is necessary to ensure maximum benefits and protection for the public; and

WHEREAS, as Tennessee's population continues to grow, pressures from liability issues and nuisance complaints inhibit the use of prescribed burning; and

WHEREAS, it is the purpose of this act to authorize and promote the continued use of prescribed burning for ecological, silvicultural and wildlife management purposes; now, therefore,

AND FURTHER AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Sections 1 through 3 shall be known and may be cited as the "Tennessee Prescribed Burning Act."

SECTION 2. As used in this section unless the context requires otherwise:

(1) "Certified prescribed burn manager" means a person who successfully completes the prescribed burner certification program approved by the division of forestry;

(2) "Prescribed burning" means the controlled application of fire to naturally occurring vegetative fuels for ecological, silvicultural and wildlife management purposes under specified environmental conditions and the following of appropriate precautionary measures which cause the fire to be

confined to a predetermined area and accomplishes the planned land management objectives; and

(3) "Prescription" means a written plan for starting and controlling a prescribed burn to accomplish ecological, silvicultural and wildlife management objectives.

SECTION 3.

(a) No property owner, person, corporation, limited liability company, partnership, natural person, agent of the owner, or any other entity who conducts a prescribed burn pursuant to the requirements of this act shall be liable for damage or injury caused by fire or resulting smoke unless gross negligence is proven.

(b) Prescribed burning conducted in accordance with this section shall:

(1) Require that a written prescription be prepared, signed, and followed by the certified prescribed burn manager;

(2) Require that the certified prescribed burn manager maintain the prescription in the manager's records, and possess the prescription on site during all prescribed burnings;

(3) Occur only when at least one (1) certified prescribed burn manager is on site and supervising burns while they are being conducted;

(4) Require that the certified prescribed burn manager supervising the burns being conducted is the person who directly observes and coordinates the lighting of the fire to initiate the burn process;

(5) Require a burning permit be obtained from the division of forestry as required in § 39-14-306; and

(6) Be considered in the public interest and shall not constitute a public or private nuisance when conducted pursuant to state air pollution control statutes and rules applicable to prescribed burning.

(c) Certified prescribed burn managers shall take into account the variability of environmental conditions on site when preparing prescriptions, and shall include in each prescription a plan of action to address emergencies that could occur during prescribed burnings.

(d) The division of forestry is authorized to promulgate rules and regulations to effectuate the purposes of this act including, but not limited to, the certification of prescribed burn managers and guidelines for a prescribed burn prescription. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.